

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION**

JUAN TORRES, TDCJ No. 01982462, Petitioner,	§ § § § § § § § §	Civil Action No. DR-17-CV-025-AM-VRG
v.		
LORIE DAVIS, Director, Texas Department of Criminal Justice - Criminal Institutions Division, Respondent.		

ORDER DIRECTING RESPONDENT TO ANSWER PETITION

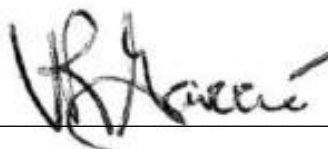
United States District Judge Alia Moses referred the above-captioned matter to the undersigned for initial proceedings consistent with 28 U.S.C. § 636(b). In accordance with Rules 4 and 5 of the Rules Governing Section 2254 Cases in the United States District Courts, the undersigned has reviewed the Petition for a Writ of Habeas Corpus by a Person in State Custody. **IT IS ORDERED:**

- 1. Service on Respondent:** The Clerk shall serve the § 2254 Petition and this Order electronically via CM/ECF on the Texas Attorney General and counsel for the Director, directed to the attention of Edward L. Marshall, Assistant Attorney General, Chief of Postconviction Litigation Division, and Laura Haney.
- 2. Respondent's Answer:** The Respondent shall file an answer or other response within twenty-eight (28) days of receipt of the § 2254 Petition. The answer or other response shall conform to Rule 5 of the Rules Governing Section 2254 Cases and Federal Rule of Civil Procedure 12. The Respondent shall serve the Petitioner with a copy of the answer or other response as required by Federal Rule of Civil Procedure 5(b).
- 3. Affirmative Defenses:** The Respondent's answer or other response should address whether the Petitioner has exhausted administrative or state court remedies, whether the Petition was filed within the applicable limitations period, and whether the Petitioner's claims are barred by abuse of the writ.
- 4. Petitioner's Reply:** The Petitioner shall file his reply to the Respondent's answer or other response within twenty-one (21) days after the Respondent serves the Petitioner with the Respondent's answer or other response.
- 5. Duty to Serve Opposing Counsel:** Federal Rule of Civil Procedure 5(b)(1) requires that all documents submitted to the Clerk of this Court for filing be served on the opposing

party through service on counsel for the opposing party. All documents submitted for filing must contain a certificate of service indicating the date and method (e.g., hand-delivery, certified mail, first class mail, etc.) by which the Petitioner sent a copy of that document to the Respondent's counsel of record. The Court will disregard any document submitted for filing by the Petitioner that does not include a certificate of service.

6. **Duty to Inform Court of Change of Address:** The Petitioner shall immediately notify the Clerk and the Respondent's counsel in writing of any change of address. He shall caption any such advisories as "Notice to the Court of Change of Address" and not include any motions or other matters in such notice. Failure by the Petitioner to furnish the Court and the Respondent of a change of address may result in dismissal of the Petition.
7. **State Court Records:** Within twenty-eight (28) days after the Respondent files an answer or other response, the Respondent shall provide the Court with the relevant State court records.
8. **Case Referred to a U.S. Magistrate Judge for Report and Recommendation:** Habeas corpus petitions filed in this District may be referred to a Magistrate Judge for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B).
9. **Consent to Have Case Decided Before a U.S. Magistrate Judge:** Pursuant to 28 U.S.C. § 636(c) the parties may consent to have a case proceed and decided before a United States Magistrate Judge with final judgment entered by the Magistrate Judge. Because of the crowded condition of the District Court's docket, the parties may wish to consent to have this case decided by a Magistrate Judge. Within twenty-eight (28) days the parties shall file an advisory (using the attached form) stating whether the party consents to have this case proceed to final judgment before the undersigned Magistrate Judge or wishes to have this case proceed before a District Judge.

SIGNED this 1st day of June, 2017.



VICTOR ROBERTO GARCÍA
UNITED STATES MAGISTRATE JUDGE

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**JUAN TORRES, TDCJ No. 01982462,
Petitioner,**

v.

**LORIE DAVIS, Director, Texas
Department of Criminal Justice -
Criminal Institutions Division,
Respondent.**

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**Civil Action No.
DR-17-CV-025-AM-VRG**

ADVISORY TO THE CLERK OF COURT

The undersigned party in the above captioned case elects as follows (please select only one of the following options):

- ☐ I Consent to Proceed Before A United States Magistrate Judge in accordance with provisions of 28 U.S.C. § 636. The undersigned party in the above captioned case waives the right to proceed before a United States District Judge and consents to have a United States Magistrate Judge conduct any and all further proceedings in this case, including rendering a decision, and to order the entry of final judgment. Any appeal shall be taken to the United States Court of Appeals for the Fifth Circuit in accordance with 28 U.S.C. § 636(c)(3).
- ☐ I Do Not Consent to Proceed Before A United States Magistrate Judge. The undersigned party in the above captioned case elects not to have this case decided by a United States Magistrate Judge, and prefers that this case proceed before the District Judge.

Party Name

By: _____
Signed by Attorney or Pro Se Party

Date